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Supreme Court of the United States.

THE PRIZE CAUSES.

MR. SEDGWICK'S BRIEF

FOR THE CAPTORS.

GIDEON & PEARSON, Printers, No. 511 Ninth Street.

Supreme Court of the United States.

IN PRIZE.

PETER MILLER AND OTHERS, Claimants of the Bark Hiawatha, her Cargo, &c., Appellants,

vs.

THE UNITED STATES, Respondents.

Appeals from decrees of condemnation in the above entitled cause and other like causes rendered in the District Court for the Southern District of New York (in Prize), and affirmed on appeal to the Circuit Court.

BRIEF AND POINTS FOR CAPTORS.

C. B. SEDGWICK, *of Counsel.*

Statement of Facts.

The property affected by the decrees from which appeals have been taken was condemned by the prize courts as *lawful prize of war.*

Whether at the time of the capture of these vessels such a state of war existed as would justify the institution of a belligerent blockade is a question of law upon the facts proved, or of which the Court can take judicial cognizance, as being in the common knowledge of the country. Historical facts, public laws, procla-

mations, sieges, battles, the closing of the courts, are matters of which prize courts will take judicial cognizance.

Some of the leading and important facts, civil and military, bearing upon this question may be briefly stated.

On the 20th day of December, 1860, the South Carolina Convention passed an ordinance repealing the ordinance of 1788, by which that State adopted the Constitution of the United States, and declaring the Union dissolved and that State sovereign and independent.

In January succeeding, this example was followed by a convention of the people of the State of Alabama, which, by a like ordinance, declared her withdrawn from the Union, and resumed and vested in the people of the State of Alabama all the powers theretofore delegated by her to the general Government. At the same time they invited a convention of the slave States to assemble at Montgomery on the succeeding 4th of February to form a provisional or permanent government.

During the same month the States of Georgia and Louisiana passed ordinances of secession, repealing all the laws and ordinances by which the Federal Constitution had been adopted, and declaring the Union dissolved.

Texas, Florida, and Mississippi, soon followed, and the representatives from these several States and their Senators in the Congress of the United States soon withdrew from their places, leaving these States unrepresented.

In February the Convention met at Montgomery under the invitation of the Alabama Convention, and there framed a constitution for a provisional government, to continue one year from the inauguration of their President, or until a permanent constitution should be framed and a government put in operation.

Under this constitution they proceeded to organize a provisional government, and elected and inaugurated Jefferson Davis as President, and elected the officers provided for, and put in operation all the deparments of government.

Afterwards a permanent government was organized and a constitution adopted including several other States, which, by the consent of their people, had joined this Confederacy, and that government has maintained itself by force of arms until this day.

Simultaneously with these movements for the formation of a new government, the State authorities favoring this insurrectionary movement, seized all or nearly all the fortresses, arsenals, ship-yards, custom-houses, and other public property of the Federal Government, and held them by force as against the general Government until they were turned over to the possession of the rebel government.

Fort Sumpter, in the harbor of Charleston, was occupied by the brave Major Anderson, with an insufficient and poorly supplied garrison. As early as the 9th of January, 1861, an unarmed steamer, the Star of the West, sent by the general Government with provisions and reinforcements under the American flag, was fired upon by batteries under the palmetto flag and driven back.

On an attempt being made to relieve Maj. Anderson early in April, the military forces of South Carolina and the Confederate States under Gen. Beauregard were called out. Batteries had already been erected intended to reduce that fort and disposess the United States Government by military force. On the 10th of April, Gen. Beauregard, acting under the orders of the Confederate Secretary of War, demanded the evacuation and surrender of Fort Sumter, and, on its being refused, under the same direction opened fire upon it on the 12th, and, after a three-days' bombardment, enforced its surrender.

15th April.

Immediately President Lincoln issued his proclamation calling for 75,000 volunteers to suppress the insurrection, and at the same time calling an extra session of Congress to assemble on the 4th of July.

17th April.

President Davis issued a proclamation authorizing applications for letters of marque and reprisal, and promising commissions and authority to prey upon the commerce of the United States; and they were, to some extent, issued accordingly.

19th and 27th April.

President Lincoln issued his proclamation declaring a blockade of the ports of the rebel States; and on the 27th of April a further proclamation declaring a blockade of the ports of Virginia and North Carolina, which had then been added to the Confederacy.

Com. Prendergast issued his proclamation declaring that he had a naval force to make the blockade efficient.

29th April.

Jefferson Davis sent a message to the Confederate Congress, announcing the ratification of the Constitution passed for the establishment of a permanent government for the Confederate States of America, and stating that it only remained that elections should be held before it should be put in successful operation.

He announced that the Confederate army then in the field was 19,000 men; that beside these there were then en route for Virginia 16,000 more men, and advised the organization of an army of 100,000 men; that contracts had been entered into for cannon, shot, powder, and other munitions of war; that a Navy Department had been organized, and they had already two vessels in commission and others in progress. He recommended the formation of military schools, and other preparations for war.

3d May.

President Lincoln issued a further proclamation calling for additional volunteers..... 42,034
Increasing the regular army..... 22,714
And calling for additional seamen..... 18,000

6th May.

The Confederate Congress passed an act recognizing a state of war with the United States, regulating the granting of letters of marque and reprisal, and authorizing the President to use all the land and naval forces of the Confederate States.

13th May.

On this day Queen Victoria, of England, issued her Proclamation of Neutrality, recognizing hostilities between the "Government of the United States of America and *certain States* styling themselves the Confederate States of America."

Meantime in every part of the country was heard the swelling din of arms. Military departments were organized, and troops were put in motion. A veteran soldier had been called to the defence of the capital, and soldiers were quartered in these halls of legislation and justice. Blood had been shed at Baltimore. Bragg was investing Fort Pickens with an army of 7,000 men in the south,

and our armies were advancing in the north upon Eastern and Western Virginia, and crossing the Potomac at the Capital. Our ships of war were burned and sunk in Norfolk harbor, and immense stores of public property, and munitions and arms, were seized and destroyed in our principal navy yards at Gosport and Pensacola.

Laws were passed and enforced in the rebel congress and rebel State legislatures forbidding the payment of debts to creditors in the loyal States, and their property in the rebel States was seized and confiscated.

The results may be briefly summed up:

(1.) The complete organization of a separate and de facto independent government, with legislative, executive, and judicial departments, founded upon the popular will, and in full and harmonious operation.

(2.) The entire exclusion from all the States of this Confederate government of all federal authority. There are neither federal officers, nor are any courts open, nor revenues collected, nor is there any sway of federal laws or Constitution.

(3.) The subversion of the military authority of the Government was accomplished by the seizure of their forts, arsenals, navy yards, and the destruction or seizure of our vessels.

(4.) This hostile and separate government has so far been successfully maintained by the levy and support of a sufficient military force; and we have been compelled, both on sea and land, to accord to them belligerent rights. And it yet holds complete sway and authority, civil and military, over the whole extent of their territory, save only in those places conquered by arms, held by military and naval power, and ruled by military governors under the authority of the laws of war.

Upon this state of facts the Government claims as matter of law:

Points of Law.

I.

That at the time of the several captures such a state or condition of war existed as vested in the capturing power the right

under the law of nations to capture the property in question upon the high seas *as the property of public enemies.*

(1.) The status or condition of *civil war* existed in the country at the time of the several captures in question.

PUBLIC WAR is that state in which nations, authorized by the sovereign power, prosecute their rights by force.

Grotius de Jure, Lib. I., c. 1., § 2.

Bynkershoek, Lib. I., c. 1.

Vattel, Lib. III., c. 1., § 1.

CIVIL WAR arises "whenever a party is formed in a State who no longer obey the Sovereign, and are possessed of sufficient strength to oppose him; or when, in a Republic, the nation is divided into two opposite factions, and both sides take up arms."

Vattel, Lib. 3d, ch. 18, p. 425.

"Custom appropriates the term *civil war* to every war between the members of one and the same political society."

"A civil war between the different members of the same society is what Grotius calls a *mixed war*. It is *public* on the side of the Government, and *private* on the part of the people resisting its authority."

Wheaton on Int. Law, p. 365.

That this condition of civil war actually existed at the time of the captures in question is demonstrable. The rule and test is clear and simple by which to determine this point. It was well stated by Demosthenes, in the case of the Thracian Chersonese, cited by Grotius with approval, "Against those whom the laws cannot reach, we must proceed *as we oppose public enemies*, by levying armies, equipping and setting afloat navies, and raising contributions for the prosecution of hostilities."

Grotius de Jure, § 23.

Ch. J. Hale states the rule nearly in the same terms: "When the regular course of justice is interrupted by revolt, rebellion, or insurrection, so that courts of justice cannot be kept open, CIVIL WAR EXISTS, and hostilities may be prosecuted on the same footing as if those opposing the Government were foreign enemies invading the land."

1 Hale's Pl. of the Crown, 347.

1 Knapp, 346, 360.

By the Constitution of the United States the President is declared to be the "Commander-in-Chief of the Army and Navy of the United States, and of the militia of the several States when called into the actual service of the United States."

Constitution, art. II, § 2.

In pursuance of the Constitution prize courts have been instituted. By subsequent enactments, the President, as Commander-in Chief, is authorized and it is his solemn duty "whenever by domestic insurrection the laws of the land are obstructed, to use the military and naval force of the country for the suppression of such insurrection, and causing the laws to be duly executed."

Laws of 1807, ch. 39.

This may be regarded as a statutory definition of civil war, and when it exists the President is clothed by law with authority to use the military power of the Nation for the prosecution of hostilities until the successful termination of the civil contest which has obstructed the execution of the laws.

If, therefore, upon the facts stated—historical facts about which no dispute exists, it appears that the federal courts cannot be kept open—that its judges are exiled, that no officer can execute its process, except at the peril of life—that the laws are trampled upon and despised, and that the general Government, in the exercise of its plainest Constitutional duties and functions, is resisted by armed force, and as yet successfully resisted, then the conclusion is irresistible *that a state of civil war exists.*

An attempt is made to distinguish between this state of *civil war* and *treason*, which it is said carries with it no forfeiture of property captured on the high seas, and can only be punished under municipal laws by indictment and trial in the courts of law. But, not only may treason and civil war co-exist, but they are, under our Constitution, inseparable, except in the case of giving aid and comfort to a foreign enemy. "Treason against the United States shall consist *only* in levying *war* against them, or in adhering to their enemies, giving them aid and comfort."

Con. U. S., art. 3, § 3.

Treason is therefore of necessity *war*. "Without such war there can be no traitors."

The Amy Warwick, Opinion of Mr. J. Sprague.

2. If the condition of civil war existed the property in question was subject to capture in like manner and to the same extent as if it had been the property of subjects of an independent or foreign government at war with the United States.

Belligerent rights to their fullest extent may be asserted in case of civil war.

Wheaton's Elements of International Law, p. 365.

Sovereign rights may at the same time be maintained and insisted on. "Civil war, *ex vi termini*, imports that sovereign rights are not relinguished, but insisted on. The war is waged to maintain them."

The co-existence of belligerent and sovereign rights in case of civil war is not only reasonable, but vitally necessary for the safety of the Government.

Among modern and civilized nations the practice is nearly universal, when a rebellion has assumed such dimensions as to raise armies, and involve large numbers, to allow captives to be treated as prisoners of war, and not as traitors, during the continuance of the contest.

This would not however preclude Government from afterward inflicting such punishment as justice and policy might dictate.

This point seems too well settled by authority to admit of dispute or controversy.

Rose vs. Himely, 4 Cranch, 272.
Cherriot vs. Foussatt, 3 Binney, 262.
Dobrie vs. Napier, 3 Scott, 225.
U. S. vs. Palmer, 3 Wheaton, 635.
Sautissinia Trinidad, 7 Wheaton, 306.

3. If upon the principles stated civil war admits the assertion of belligerent rights, and carries with it all the consequences of public war, then *as matter of law* these consequences necessarily result:

First. That all the citizens and persons actually resident within the rebel States, and within the territory where civil war is waged against the Government, become *ipso facto* public enemies, and are subject to all the disabilities of public enemies under the laws of war.

Second. Their property upon the high seas became *ipso facto* subject to capture and condemnation as lawful prize of war.

Third. The *loyalty* of the individual owners whose property is so seized is no answer in the prize courts to the claim of the Government and the captors.

(a.) It is the inexorable rule of the laws of war that permanent residence (without allegiance due) within the hostile territory raises a presumption of individual hostility, which, however contrary to the fact, cannot be explained or disproved in the prize courts.

(b.) The question is one of residence simply, and not of loyalty or disloyalty. "If his residence is in a belligerent country his property is as liable to be captured as enemy's property."

1 Kent's Comm., 83.

The Emanuel, 1 Rob., 296.

"No position is more established than this, that if a person goes into another country, and engages in trade, and resides there, he is by the law of nations to be considered a member of that country."

Lord Stowell in the Indian Chief, 3 Rob., 12.

"The laws of war, as exercised by belligerents, authorize a condemnation as enemy's property however clearly it may be proved that the vessel is in truth the vessel of a friend."

16 J. R., 473–4.

3 Cranch, 408, C. J. Marshall.

2 Scott, 201.

2 Bingh., N. C., 781.

(c.) This rule was strictly adhered to by Great Britain during our Revolutionary war, wherein the property of the colonists captured upon the high seas was indiscriminately condemned as the property of public enemies, although it might be the property of loyalists.

1847.

The same rule was recognized by this country in the case of a blockade of the Douro, instituted by the Queen of Portugal on the

occasion of the revolt of the people of Oporto. In reply to the remonstrance of the United States consul at Oporto, addressed to this Government, Mr. Buchanan, then Secretary of State, said: "Your doctrine is totally at variance with the principles established by the international law. The blockade established by the Queen of Portugal is a lawful one, and we are bound to respect it."

1837.

A Russian colony on the Circassian coast revolted. A blockade was instituted by the Russian government. A British vessel (the Vixen) was captured in attempting to violate the blockade. She was condemned in the Russian prize courts; and on an appeal to the British government Lord Palmerston said that the blockade by Russia of her ports in the temporary military possession of her insurgent Circassian subjects was entirely valid, and the government refused all interference.

British Blue Book, 1837; Diplomatic Correspondence of Lord Palmerston in case of the Vixen.

See also debates in British parliament on the Queen's proclamation of neutrality.

1 Rebellion Record Documents, pp .

II.

A state of civil war *may exist between the Government of the United States and a State of the Union, or a confederation of rebel States,* which will clothe the Federal Government with belligerent rights as against such rebel State or States, to the same extent as if a condition of public war existed between the Government and an independent foreign power.

(1.) A State, as such, has a right to enforce its just demands by war. This right is inherent in any organized political community, rightfully claiming the position and dignity of a State.

(2.) The several States composing this Union have this right, subject to the restrictions and limitations of the Constitution.

The *necessity* of a Constitutional restriction admits this.

The terms of the Constitutional restriction admit it.

Con., Art. 1, § 10.

"No State shall, *without the consent* of Congress, lay any duty of tonnage, keep troops or ships of war in time of peace, enter into any agreement or compact with another State or with a foreign power, *or engage in war, unless actually invaded or in such imminent danger as will not admit of delay.*"

So that a State of the Union, under its own State authority, *may without the assent of Congress* rightfully and Constitutionally make war in two specified cases, and with its consent may maintain armies and navies, enter into treaties, and perform any act of sovereignty whatever.

The power of making war is therefore inherent in a State.

(3.) A State of the Union may rightfully make war upon the Federal Government in case of gross outrage and tyrrany, threatening the subversion of its Constitutional rights and the destruction of its liberties when Constitutional modes of redress are exhausted, and nothing remains but to submit to oppression or establish its rights and liberties by force of arms. This is the ultimate right of revolution.

It is no answer to this proposition to say, that the true theory of our Government is, that it is not a compact of States, but a Government of the people creating a nation and securing unity—that there is no constitutional authority for secession—that all ordinances for effecting it are null and void—that any compact between a confederation of States of the Union, by which a new Government is formed, is directly in violation of the Constitution and void. Conceding all this and all that can be claimed on this subject, and it only settles the question *of right and of constitutional authority* but *not the question of power.* Assuming to do it, is rebellion and gives us the right to oppose and conquer them by force. It does not of itself dissolve the State governments, although it may give us the right, under the laws of war, to overthrow and destroy them.

III.

A state of civil war may likewise exist betweeen the Government of the U. S. and certain insurgent, rebellious persons or people who are arrayed in armed hostility against it. Before this resistance to the Government proceeds so far as to seize upon and control State governments for hostile purposes, it may involve the whole insurgent territory and its resident inhabitants and their property in the consequences of war and subject them to the belligerent rights of the Government.

The question whether this is a war of rebellious States or a war of rebellious people, within the same territorial limits, is speculative and technical rather than practical and substantial.

IV.

It is not necessary or essential to the existence of a state of war, public or civil, involving belligerent rights, that there should have been a previous formal and solemn declaration of war.

(1.) The doctrine that a solemn declaration by the sovereign power of the State is an essential pre-requisite to the lawful existence of a state of public war does not now prevail. "War may lawfully exist without a declaration on either side."

Lord Stowell, citing The Eliza Ann: 1 Dodson, 247.
Bykershoek Lib., 1., ch. ii.

"The declaration by manifestoes, nunceos, or heralds, does not constitute war, and the omission of the declaration can no way impair its justness or efficacy, especially in a case of defensive war.

1 Kent's Comm., 51, 54.
Wheat. on Captures, 13, 15.
Duponceau on War, Chs. 1 and 2.

(2.) The practice of the Government has been in conformity with this statement of the law. Neither in the war with Great Britain nor in the war with Mexico was there any formal declaration of war.

(3.) The previous existence of this war has been recognized and sanctioned by numerous public acts of Congress, affirming and approving the hostile acts of the Executive and providing means for carrying on the war.

Such were the laws of the special session commencing 4th July, 1861, for raising 500,000,000 of dollars, and for 500,000 volunteers to serve for three years "*or during the war.*"

The men raised under this act were by an amendment to be mustered into the service "*during the war.*"

Another act was passed sanctioning and ratifying the acts of the President, the third section of which was as follows:

"That all the acts, proclamations, and orders of the President of the United States after the 4th of March, 1861, respecting the army and navy of the United States, and calling out or relating to the militia or volunteers from the States, are hereby approved, and in all respects legalized and made valid, to the same intent, and with the same effect, as if they had been issued and done under the previous express authority and direction of the Congress of the United States."

By this act provision was also made for volunteers, "whether for one, two, or three years, *or during the war.*"

Another act was passed authorizing the commencement of an iron-clad navy, and another authorizing enlistments for the navy for three years or "*during the war.*"

Indeed Congress during the whole of this extraordinary session were occupied in passing laws to enable the Government to prosecute the war with vigor and efficiency.

See laws of special session of 1861.

V.

The President's proclamation of the 19th of April, 1861, announced a blockade of our ports in pursuance "of the law of nations." It provided for a warning for such vessels as approached our ports without previous knowledge of the establishment of the blockade; but it did not excuse from capture and condemnation those vessels which, with a previous notice and knowledge of the blockade, attempted to violate it on pretense that they were entitled to a warning at the mouth of the harbor and an endorsement on their register.

(1.) A literal construction of the proclamation by which a vessel sailing direct to a blockaded port, with full notice and knowledge of the blockade, and with a deliberate intent to violate it, should be held entitled to be warned off by the blockading fleet and not otherwise liable to capture would be absurd and render the blockade a farce.

Such a construction would justify the same vessel in attempting to enter every blockaded port on the coast and to have a warning at each in turn. It is only for a second attempt at the same port that (by a literal reading) she can be captured.

(2.) The primary and paramount object of the proclamation was to announce the institution of a blockade of the rebel ports "in pursuance of the laws of the United States and of the law of nations"—a belligerent blockade. By the well-settled and undoubted principles of the law of nations a neutral vessel knowing a port to be in a state of blockade and sailing towards it with a view to violate the blockade or evade it, commits a fraud upon the belligerent rights of the blockading power, and is subject to capture and condemnation therefor.

3 Phillimore's International Law, 397.
Wheaton's International Law, 541, 550.
1 Kent's Comm., 148–9.
1 Duer on Insurance, 663, § 39.
Flander's Mar. Law, 168, § 225, note 3.
2 Arnold's Mar. Ins., 747, (Perkins' ed.)

This leading purpose should not be frustrated by any construction of any other part of the proclamation upon an inferior and subordinate point capable of a different construction which would make it entirely harmonize with the general object thereof and with the acknowledged principles of the law of nations.

(3.) The sole purpose of a warning to be given by a blockading vessel is to save from capture and loss innocent parties, who, by reason of the length of the voyage or the recent establishment of the blockade, are approaching the blockaded port with intent to enter, but without knowledge of the blockade and without any guilty purpose; and no rule of justice or reason requires it to be given in any case where with such knowledge and with the fraudulent purpose of evading the blockade a vessel approaches the blockaded port.

This principle in regard to the notice or warning which a neutral vessel is entitled to on approaching a blockaded port has been recognized as the accepted and governing principle of international law in our treaties with England, and is regarded by this Court as the true exposition of the law of nations in respect to blockades.

Fitzgibbons v. Newport Ins. Co. 4 Cranch, 199. 5 Cranch, 335. 6 Cranch, 29.
Treaty with England, 1794.
8 Stat. at Large, v. 125, art. 18.
Treaty with France in 1800.
8 Stat. at Large, 184, art. 12.

(4.) Proof of the surrounding circumstances is always competent to enable the Court to give a construction to a paper, the terms of which are ambiguous or conflicting, and in this view the state of the public law at the time, our treaty stipulations on the same subject, the proclamations and notices by the Secretary of the Navy and the naval officers in carrying out the proclamation of the Commander-in-Chief, have an important bearing upon its construction.

The proclamation of the 27th April, for the blockade of the ports of Virginia and North Carolina, (under which for an attempted violation the Hiawatha was seized) has no provision for a warning and endorsement of the register.

So also the announcement of Flag-Officer Prendegrast (April 30) of an efficient blockade of those ports under the Proclamation of April 27 follows the conditions of the established Law of Nations by limiting the warning to be given to those "coming from a distance and ignorant of the proclamation."

This construction has been accepted by and uniformly acted upon by the Government.

(5.) The first object to be sought in giving a construction to this Proclamation is the *intent of the Executive:* the thought which the paper expresses. This meaning is to be sought:

(1.) In the words of the paper, the natural signification of the words employed. If it is utterly incapable of any meaning, giving the fullest possible force to the words used, these words cannot be supplied, and there is no latitude for construction.

Green v. Wood, 7, Q. B., 178.

(2.) If the words embody a definite meaning, about which there can be no dispute or question, then that meaning cannot be changed by construction.

Newell v. People, 3 Selden, 97.

(3.) If, however, the words so construed involve an *absurdity* or *a contradiction between different parts of the same paper*, then there is room for judicial construction, and the court should interpret the sense, and say what was intended to be conveyed by the words.

Same case.

(4.) This *intent* of the instrument, whether law or proclamation, or treaty, or contract is to be sought in every legitimate way.

McClusky v. Cromwell, 1 Kern., 601.

(a.) First. In the words and language employed, in their natural signification, in the order and grammatical arrangement in which they are placed.

(b.) Second. *In the context*, so as to give a meaning and force to every part of the paper.

(c.) Third. In the plain, general purpose and object of the instrument—no part of which should fail if the *language is* ambiguous, and by fair interpretation the whole can be made to stand.

(d.) In the surrounding circumstances in reference to which the law was passed, or the proclamation issued, and which caused or made necessary the paper.

(5.) While, therefore, we would not ask the court "to interpret what has no need of interpretation," nor to set aside language and words which are free from ambiguity and doubt, and express plainly, clearly, and distinctly the sense of the framer of the proclamation, it would be madness to allow the exercise of this great belligerent right of blockade to be thwarted, and utterly fail by such an adherence to the letter as would render its provisions absurd, inconsistent with each other, inconsistent with the public laws which it proposes to enforce, and the remedy it designs to use entirely idle and futile.

VI.

The act of 13th July, 1861, chap. 3d, was not intended to affect, and does not in terms or by fair construction affect in any degree the existence or validity of the belligerent blockade previously declared and then in force.

The intent and purpose of this law was—

(1.) To aid in the collection of duties, and to that end to enable the President by proclamation and without blockade to close the ports where duties could not, by reason of the war, be safely collected in the new modes provided by the act.

(2.) To prevent trade and commercial intercourse with the States in insurrection by land or internal water channels, and to forfeit all goods going or coming from said States in such illicit traffic, together with the vessels or vehicles in which it was carried on. For instance, vessels or boats conveying goods across the Potomac or other rivers where there were no ports subject to blockade.

(3.) The sixth section has no reference to vessels violating blockade, but was intended to forfeit the property of rebels in ships owned wholly or in part by them lying in our ports or elsewhere, although they were not engaged in any illicit traffic. Proceedings to secure such forfeiture would not be in the courts in prize. It is entirely a proceeding under the jus civili, not the jus belli, and was not designed to affect belligerent rights under the public law in any way, or to any extent.

C. B. SEDGWICK,

Of Counsel for Captors.